

GENERAL TERMS AND CONDITIONS

1. **DEFINITIONS.** When used in this Purchase Order: "Buyer" means the Company issuing this Purchase Order; "Seller" means the firm, person, corporation or business entity furnishing the goods and/or services described in this "Purchase Order". "Goods" means the goods and/or services described in this Purchase Order.
2. **ACCEPTANCE.** Acceptance of this Purchase Order by Seller is acceptance of all terms and conditions thereof, including those incorporated herein by reference. Seller accepts and shall be bound by the terms of this Purchase Order. This Purchase Order expressly limits acceptance to the terms stated herein, and any addition or different terms proposed by Seller are rejected unless expressly assented to in writing by Buyer. No contract shall exist except as herein provided.
3. **PRICES.** Seller represents that the prices shown herein conform to applicable government regulations. Those prices are firm, and will not be subject to any escalation or other change unless otherwise provided herein.
4. **INVOICING. PAYMENT.** Payment terms shall be net thirty days from receipt of Seller invoice. Seller shall render invoices for the goods and shall invoice for each shipment, except as otherwise provided herein. All payments hereunder will be made by Buyer by check payable to the order of the Seller in the currency of payment specified herein, or if none is specified, in United States dollars, mailed to the Seller at the address shown on the face of this Purchase Order.
5. **DISCOUNTS.** Should delay occur in receipt of Seller's invoices and supporting documents, the time allowed by Seller for payment of invoices or for taking a cash discount shall begin not earlier than the date the invoices and all supporting documents have been received by Buyer. Failure to follow instruction for rendering invoices and other required documents as specified herein on time may result in delays or non-payment.
6. **CHANGES.** No changes shall be made in this Purchase Order as to quantity, description, price, terms, F.O.B./F.A.S. points or otherwise unless so instructed by Buyer. If changes are required to this Purchase Order, they shall be made only on Buyer's form of change order executed by Buyer.
7. **OVERAGES AND SHORTAGES.** Shipment of the goods in quantities exceeding those ordered shall be at Seller's risk and if Seller requests return of excess goods, Seller shall bear the expense thereof. Shortages shall be made good by Seller or, at Buyer's option, the price of the missing goods shall be refunded or credited to Buyer.
8. **WORK ON PREMISES.** If the goods include services to be rendered by Seller on premises on which Buyer is working, Seller shall take all necessary precautions to prevent the occurrence of any injury or damage to persons or property during the rendition of those services and shall indemnify Buyer against any and all losses which may result in any way from an act or omission on the part of Seller, its agents, employees or subcontractors, except such loss as may be due solely and directly to the negligence of Buyer. Seller shall also conduct said operations in compliance with the provisions of any applicable collective bargaining agreement executed by Buyer or on Buyer's behalf, shall comply with Buyer's directives with respect to any jurisdictional dispute between or among crafts affecting either Buyer's or Seller's operations, and shall otherwise conduct its operations so as to preserve labor harmony upon the premises.
9. **INSURANCE.** Prior to starting work on premises on which Buyer is working, Seller shall procure and maintain in force statutory Worker's Compensation Insurance for all of Seller's employees at the project site, Employers Liability Insurance with \$500,000 coverage (each section), Commercial General Liability Insurance (including XCU coverage by subcontractors involved in utility work, excavation, mechanical, electrical and/or plumbing work) and Automobile Liability Insurance and such other insurance. Unless otherwise provided in this Agreement by Exhibit, the Subcontractor's Commercial General and Automobile Liability Insurance, as required by this provision shall be written for not less than limits of liability as follows:

Commercial General Liability	\$1,000,000	Each Occurrence
	\$2,000,000	General Aggregate (per project)
	\$2,000,000	Products/Completed Operations Aggregate
	\$1,000,000	Personal and Advertising Injury
Comprehensive Automobile Liability	\$1,000,000	Combined Single Limit
Workers Compensation	\$1,000,000/\$1,000,000/\$1,000,000	
Excess Liability (Umbrella)	\$5,000,000	

The Commercial General Liability Policy shall contain broad form contractual liability coverage, and necessary endorsements listing the Buyer as additional insureds with coverage on a primary basis for the additional insured (not contributory), and products/completed operations coverage. Commercial General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella policy. All policies shall be written through a company duly authorized to transact that class of insurance in the State where the project is located, shall be with insurance companies acceptable to Buyer with an A.M. Best rating of A – or better. To the fullest extent permitted by law, Buyer shall be insured by Seller through Seller's insurance carriers with respect to liability arising out of or in connection with Seller's Work for Buyer. To this end, the Commercial General Liability and Business Automobile Liability Policies shall name Buyer and Buyer's agents, as Named Insureds, to be evidenced on Form No. CG 20 10 or a form substantially the same as such; shall be endorsed to be primary and non-contributory to any insurance which may be maintained by or on behalf of Contractor; shall be on an "occurrence" basis and shall include "Limits Apply Per Project" with respect to the Commercial General Liability Policies. Additional insured Coverage will also include products/completed operations. Seller shall maintain all insurance coverages required by this agreement in force for a period of one year after completion of the Work and Seller's completed operations coverage shall be kept in force for as many years as necessary to protect Buyer for claims asserted against Buyer due to defects in Seller's Work which claims may be covered under such completed operations coverage.

10. **INSPECTION.** All goods, the materials therein, and the workmanship, packing and marking thereof shall be subject to such inspections and tests as Buyer may determine at any reasonable time and place, including during the course of manufacture. If any such inspection or test is made on the premises of Seller or its subcontractor, Seller shall furnish, without additional charge, all reasonable facilities and assistance for the safe and convenient conduct thereof. Notwithstanding the foregoing, Buyer is not obligated to perform any such inspection or examination. No inspection or examination of all or any part of the equipment or services, nor the failure to inspect or examine the same, nor acceptance thereof, nor the expression of any approval by Buyer, nor payment therefore shall be deemed to relieve Seller from any of its obligations under this Contract, including among others the obligation to provide equipment and services satisfying the warranty set forth herein.
11. **WARRANTY.** Seller warrants that the title to the goods sold hereunder will be free and clear of security interests, liens and claims, the labor, material and component parts of the subject of this Purchase Order have been paid for and that Seller will indemnify and hold Buyer harmless from and against any and all claims made on account of such labor, material or component parts. Further, that the goods shall be free from defects of materials or workmanship, that they shall fully comply with the applicable specifications and shall perform as represented by Seller, for a period of twelve (12) months from the date of installation or eighteen (18) months from date of shipment, whichever period first expires, and that except as may be otherwise provided herein, they shall be new and unused in their entirety. Seller also warrants that the goods shall be delivered free from the rightful claim of any person by way of patent or trademark infringement, and shall at Buyer's request but Seller's expense, defend any such claim and indemnify Buyer from any resulting liability. In addition, Buyer shall have the benefit of any such warranty customarily extended by Seller or the manufacture of the goods to Buyers or users thereof, and Seller shall obtain any such warranty for Buyer's benefit.
12. **INTELLECTUAL PROPERTY & OWNERSHIP OF WORK PRODUCT**
All work product, materials, intellectual property, trade secrets or processes developed & produced under this Agreement which provide a solution that is specific to the business of CES are the property of CES. All work product, reports, engineering product, original drawings, schematics, programs, code, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Seller or Seller subcontractors, consultants, and other agents in connection with this Agreement shall be the property of CES. CES shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Seller shall promptly deliver to CES all such documents, which have not already been provided to CES in such form or format, as CES deems appropriate. Such documents shall be and will remain the property of CES without restriction or limitation. Seller may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of CES.
13. **RISK OF LOSS.** The risk of loss to the goods purchased hereunder shall pass from Seller to Buyer at the F.O.B. or F.A.S. point specified in this Purchase Order, and Seller shall deliver the property to that point at Seller's cost.
14. **CANCELLATION. DEFAULT.** Time of delivery is of the essence. Buyer may refuse any goods and cancel all or any parts of this Purchase Order, if Seller fails to deliver all or any part of the goods in conformity with the requirements of this Purchase Order including time of delivery. Acceptance of any part of the goods shall not bind Buyer to accept later shipments, nor deprive it of the right to return non-conforming or late-delivered goods already accepted.
15. **COMPLETE AGREEMENT.** This Purchase Order, including the terms and conditions of purchase and any incorporated specifications, and packing marking, shipping and invoicing instructions referred to herein constitute the entire agreement between the parties with respect to the sale and purchase of the goods. Except as may be otherwise provided herein, the Buyer shall not be bound by any provision in Seller's quotations, offers, proposals, invoices, packing lists, or other instruments.
16. **ASSIGNMENT.** Seller shall not assign this Purchase Order nor any part thereof or any right to payment hereunder without Buyer's written consent. Any assignment of rights to receive payment hereunder shall be subject to all Buyers' rights of offset. Subject to the foregoing, this Purchase Order binds and inures to the benefit of the successors, assigns and personal representatives of the parties. Buyer shall have the right to assign this agreement or any part thereof with prior written consent of Seller.

17. **EQUAL EMPLOYMENT OPPORTUNITY.** The provisions of Paragraphs (1) through (7) of Section 202 of Executive Order 11246 issued September 24, 1965. Executive order 11375 dated October 13, 1967 and implementing regulations including Title 41, CFR, Chapter 60, dealing with nondiscrimination in employment, affirmative actions and minority business enterprises are hereby insofar as applicable, incorporated and made a part of this Purchase Order, as are provisions on those subjects contained in any applicable prime contract.
18. **FORCE MAJEURE.** Neither party shall be liable for any delays in performance hereunder due to fire, flood, third party strikes, wind storm, riot, acts of God, acts of the public enemy, wide spread labor difficulties or other similar unforeseeable causes beyond the reasonable control and without the fault or negligence of the party incurring such delay, provided that such party has diligently sought to mitigate the potential impact of any such delay. A party which anticipates claiming any delay in performance by reason of any such occurrence shall within three (3) business Days after obtaining knowledge of such occurrence notify the other party in writing thereof. No such causes shall be the basis for a request for additional compensation. No extension of any time periods hereunder shall by reason of such causes be extended for a period exceeding the time actually lost by reason of such causes.
19. **INDEMNIFICATION.** To the fullest extent permitted by Law, Seller shall defend, indemnify and hold harmless Buyer, Lender, Contractor, Engineer, the Consulting Engineer, and Affiliates thereof, along with each of their respective officers, directors, partners, agents, employees, successors, and assigns, (collectively, the "Indemnities"), from and against all loss, damage, expense and liability (including but not limited to court costs and reasonable attorneys' fees) resulting from injury to or death of persons, including employees of Seller or the Indemnities, and from damage to or loss of third party property (in the aggregate, "Indemnified Events"), caused by or arising in whole or in part out of the acts or omissions of Seller (or its subcontractors, vendors, officers, employees or agents) in connection with the equipment, services, or performance of this Purchase Order; provided that Seller shall not be liable in respect of any such loss, damage, cost or liability if, and to the extent caused by or arising out of the negligence or willful misconduct of the Indemnitee.
20. **LIMITATION OF LIABILITY.** In no event, whether as a result of breach of contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise, shall either party or its subcontractors, suppliers or affiliates be liable for loss of profit or revenues of the other party, loss of use of the equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities, services or downtime costs, claims of the other party's customers, or for any special, consequential, incidental, indirect or exemplary damages. Except as otherwise specifically provided in this Purchase Order, the maximum aggregate liability of Seller under this Contract from any and all causes, shall in no event exceed an amount equal to the Contract Price. Notwithstanding any other provision herein to the contrary, the foregoing limit of liability (i) shall exclude any liability of Seller satisfied by the proceeds of Seller's insurance, (ii) shall not apply to limit, nor shall such limit include the cost of, any of Seller's indemnification obligations under Article 17, and (iii) shall not apply to limit the liability of Seller in cases of fraud or willful misconduct.
21. **APPLICABLE LAW.** This Contract shall be governed by, construed and enforced in accordance with the laws of the State of California, exclusive of conflicts of laws provisions.
22. **CONFIDENTIAL INFORMATION.** Disclosure by the Seller to third parties of information concerning the Contract Order or the Scope of Work to be performed may result in the disclosure of information which the Buyer considers to be proprietary or confidential. Without the advance written consent of the Buyer, Seller shall not publish or otherwise disclose to others any information concerning this Contract Order.
23. **TERMINATION OR STOP WORK FOR BUYERS CONVENIENCE.** This contract and work pursuant to it may be terminated in whole or in part by Buyer, without cause, by giving written notice of termination to Seller at an agreed address. Such termination shall be explicitly identified as a "Stop Work Order." Complete or partial cancellation of any order or agreed work will include payment of incurred costs and liquidation of any reasonable and necessary commitments previously made by Seller in the conduct of its work pursuant to this contract.
24. **TERMINATION FOR DEFAULT.** If the Seller shall breach any provision of the Contract Order and fail to cure such breach within 10 days after written notice of such breach is given to the Seller, the Buyer shall have the right, by written notice to Seller, to terminate the Contract Order. However, if such breach is capable of being cured, the Buyer shall not terminate the Contract, provided the Seller has initiated action to immediately remedy the breach
25. **CERTIFICATIONS REQUIRED.** Buyer requires certification that any price provided under this contract is lawful and non-discriminatory and that all labor performed under this contract is in compliance with applicable labor laws. Acceptance of these Terms and Conditions shall constitute such certification.
26. **QUALITY COMPLIANCE.** Seller shall comply with the quality standards as outlined in Schedule A and in the Technical Specifications provided within this Purchase Order (as required).
27. **PARTS SENT TO THIRD PARTY FACILITY.** Title to parts or miscellaneous hardware will remain at all times with Buyer. Risk of loss or damage to hardware will transfer to Seller (service provider) upon its arrival on board the carrier at the repair or manufacturing facility and will transfer back to Buyer when said parts or miscellaneous hardware or component thereof is delivered by the Seller to Buyer.